

**JAYLA ALLEN, DAMON JOHNSON,  
TREASURE SMITH, and THE PANTHER  
PARTY,**

*Defendants.*

[illegible]

**Civil Action No. 4:18-CV-3985**

**DEFENDANTS' ADVISORY TO THE COURT  
REGARDING CONTROLLING LEGISLATION EFFECTIVE SEPTEMBER 1, 2019**

**TO THE HONORABLE CHARLES ESKRIDGE, U.S. DISTRICT JUDGE:**

Defendants Waller County, Texas, the Waller County Commissioners Court, and the Hon. Carbett “Trey” J. Duhon and Christy A. Eason, each in the official capacities, and subject to their pending motion to dismiss Plaintiffs’ First Amended Complaint, Doc. 51, respectfully file this advisory to inform the Court of a significant legislative development affecting early voting in the State of Texas.

1. Through this lawsuit, Plaintiffs’ complain of Waller County’s allocation of early voting hours in the City of Prairie View for the 2018 general election. *See generally*, Doc. 49. As relief, Plaintiffs ask the Court to order Defendants “to provide at least parity, standardized, or otherwise adequate early voting hours to Prairie View and PVAMU as compared to other Waller

County cities,” and “to ensure that, now and in the future, a representative of PVAMU students is involved in the process for setting an early voting schedule.” Doc. 49, p. 28. For the reasons articulated in Defendants’ pending Motion to Dismiss Plaintiffs’ First Amended Complaint, Plaintiffs have failed to state a colorable claim upon which this, or any other, relief may be granted. *See generally*, Doc. 51. Nevertheless, Defendants want to inform the Court of recently adopted legislation that substantially limits county discretion in setting early voting hours and effectively standardizes the number of early voting hours at all temporary branch polling locations within a county.

2. House Bill 1888 (“H.B. 1888”) from the 86<sup>th</sup> Legislative Session, which was signed by the Governor on June 10, 2019 and became effective on September 1, 2019, now largely dictates the hours required for early voting at temporary branch polling locations throughout the State.<sup>1</sup>

3. In particular, H.B. 1888 amends section 85.064(b) of the Texas Election Code to provide:

“Early voting by personal appearance at each temporary branch polling place shall be conducted on the days that voting is required to be conducted at the main early voting polling place under Section 85.005 and remain open for at least:

(1) Eight hours each day; and

(2) Three hours each day if the city or county clerk does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters.

Section 85.005 of the Texas Election Code mandates that early voting at the main early voting polling place shall be conducted on the weekdays of the early voting period. TEX. ELEC. CODE § 85.005(a).

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<sup>1</sup> A copy of the enrolled version of H.B. 1888 from the 86<sup>th</sup> Regular Session of the Texas Legislature is attached as Exhibit 1 to this Advisory.

4. Thus, after September 1, 2019, a county like Waller, which has more than 1000 registered voters, is required to hold early voting at each temporary branch polling place on each day of the early voting period<sup>2</sup> for at least eight (8) hours per day. Consistent with this mandate, for the November 2019 special election Waller County has established four early voting locations—one for each of its County Commissioner Precincts—including one at the Waller Community Center, which sits in the City of Prairie View at the edge of the Prairie View A&M University campus. Each of these temporary branch locations offers the same days and hours of early voting, consisting of eight hours of early voting for each day of the early voting period, except for the last two days in which there are twelve (12) hours of early voting.<sup>3</sup>

Respectfully submitted,

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<sup>2</sup> Pursuant to the Texas Election Code, the early voting period generally begins the 17<sup>th</sup> day before the election and continues through the fourth day before election day. TEX. ELEC. CODE § 85.001(a).

<sup>3</sup> The early voting hours for the current location are available on the County's website through the following link: <http://www.co.waller.tx.us/page/Front%20Page>. The four locations include the main early voting location at the county courthouse in Hempstead, Texas, *see* TEX. ELEC. CODE. 85.002, and three temporary branch locations in the cities of Waller, Brookshire, and Prairie View, *see* TEX. ELEC. CODE. 85.062.

**CERTIFICATE OF SERVICE**

This is to certify that on October 25, 2019, a true and correct copy of the foregoing document was filed with the Clerk of the Court via the CM/ECF filing system, which provides notice of filing to all counsel of record.

*/s/ Gunnar P. Seaquist*\_\_\_\_\_

Gunnar P. Seaquist